

REMARKS

[0003] Applicant respectfully requests entry of the following remarks and reconsideration of the subject application. Applicant respectfully requests entry of the amendments herein. The remarks and amendments should be entered under 37 C.F.R. §1.116 as they place the application in better form for appeal, or for resolution on the merits.

[0004] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-7, 9-16, 19, 20, 21, 23-28, 30, 32-34, 36-38, 40, 42, 44, and 46-59 are presently pending. Claims 1, 23, 30, 32, 46, 50, 51, and 55-59 are amended herein; claims 8, 22, 29, and 45 are cancelled herein; and no new claims are added herein.

Statement of Substance of Interview

[0005] The Examiner graciously talked with me—the undersigned representative for the Applicant—on August 30, 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0006] During the interview, amendments to overcome the 101 rejections, claim objections, and 103 rejections were discussed. The Examiner indicated that proposed amendments would overcome the 101 rejections. Several options were discussed for overcoming the 103 rejections, but no agreement was reached.

Regarding the objection to claims 21 and 22, the Examiner recommended rewriting the claims in independent form.

[0007] Applicant herein amends the claims, and submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments and Additions

[0010] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 23, 30, 32, 46, 50, 51, and 55-59 herein.

Formal Matters

[0011] This section addresses any formal matters (e.g., objections) raised by the Examiner.

Claims

[0012] The Examiner objects to claims 21 and 22 for failing to further limit the subject matter of a previous claim.

[0013] Claim 22 is herein canceled, rendering the rejection of claim 22 moot.

[0014] Regarding claim 21, Applicant respectfully submits that claim 21 is similar to an acceptable product-by-process claim in that claim 21 defines a computer-readable medium having computer-executable instructions which direct a computer to perform the method set forth in claim 9. The method is thus physically embodied in a computer-readable medium. Claim 21 is proper in its construction in that it references and is dependent from previous claim 9, and still further defines the product created having embodied thereon the method in claim 9. Moreover, the metes and bounds of claim 21 are clearly set forth in the method of claim 9 from which claim 21 depends.

[0015] The fourth paragraph of 35 U.S.C. §112 requires "a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed." Claim 9 satisfies this statutory requirement. Claim 9 is written in a format that defines, in dependent

form, a computer-readable medium to perform a method, thus enabling the performance of the method set forth in claim 9.

[0016] The format of claiming a computer-readable medium with instructions to perform a method, or a computer programmed to perform the method, was approved in *In re Beauregard*, 35 USPQ2d 1383 (Fed. Cir. 1995). The primary difference between the *Beauregard* claims and claim 21 is that claim 21 is written in a dependent format. Often this format raises an initial concern because the preamble of the dependent claim differs from the base claim. However, the present dependent claim also complies with a format approved by the Board of Patent Appeals and Interferences in *Ex parte Adrianus P.M.M. Moelands*, 3 USPQ2d 1474 (PTO Board of Pat App and Int 1987). In *Moelands*, the Board upheld as appropriate the following dependent claim to a data transmission system:

11. A data transmission system comprising:
 - at least two of the data transmission stations of claim 10;
 - a clock bus interconnecting the clock terminals of the stations; and
 - means which maintain the clock bus at the second voltage level in the absence of forcing by the stations.

[0017] Although the preamble in *Moelands'* claim 11 to a "data transmission system" is different than the preamble in claim 10 to a "data transmission station", the Board held that this dependent claim format satisfies the statutory requirements of both the second and fourth paragraphs of 35 U.S.C. §112.

[0018] Accordingly, claim 21 is in an acceptable dependent format and is in condition for allowance. Applicant respectfully requests that the objection to claim 21 be withdrawn.

Substantive Matters

Claim Rejections under § 101

[0019] Claim 50 is rejected under 35 U.S.C. § 101. In light of the amendments presented herein, Applicant respectfully submits that this claim complies with the patentability requirements of § 101 and that the § 101 rejection should be withdrawn. The Applicant further asserts that this claim is allowable. Accordingly, Applicant asks the Examiner to withdraw this rejection.

[0020] If the Examiner maintains the rejection of this claim, then the Applicant requests additional guidance as to what is necessary to overcome the rejection.

Claim Rejections under §103

[0021] Claims 1-8, 23-30, 32-34, 36-38, 40, 42, and 44-59 are rejected under 35 U.S.C. §103.

[0022] Claims 8, 22, 29, and 45 are canceled herein, rendering the rejection of these claims moot.

[0023] In response to the Applicant's previously submitted remarks, the Examiner states that memory "associated with" a computing system may include memory that is available by virtue of an Internet connection. To further clarify that the local media library of the claims is stored in memory that is local to a computing device, and not in memory available via an Internet connection, the claims have been amended. The claims have been further amended to indicate that the memory in which the local media library is stored is non-volatile memory, which distinguishes over volatile, or temporary, memory. Specifically, independent claims 1, 23, 30, 32, 46, 50, 55 are amended as described.

[0024] Consequently, Applicant submits that these claims are allowable, and requests that the Examiner withdraw the 103 rejections.

Dependent Claims

[0025] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0026] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Dated: 9/10/07

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